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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,521	12/05/2003	Richard Floyd Percy	16638-US	2404
7590		07/19/2005	EXAMINER	
Stephen D. Dellett		MAMMEN, NATHAN SCOTT		
Patent Department		ART UNIT		
DEERE & COMPANY		PAPER NUMBER		
One John Deere Place		3671		
Moline, IL 61265-8098		DATE MAILED: 07/19/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,521

Applicant(s)

PERCY ET AL.

Examiner

Nathan S Mammen

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-7,10-13 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/14/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 939,068 to McGrath, cited by Applicant, in view of U.S. Patent No. 4,970,852 to Check et al., cited in previous Office action.

The McGrath '068 patent discloses an apparatus comprising a grass mower (A) having a cutting unit, a grass catcher (Fig. 1) with a retaining structure (11), and a reinforcing member (5). The reinforcing member extends laterally across the bottom the grass catcher. What the McGrath '068 patent does not disclose is that the grass catcher is a one-piece molded box-like structure. At the time of the McGrath patent, molded structures (i.e., plastics) were uncommon. Instead, McGrath utilized canvas (6, 7) to form the grass catcher. The Check '852 patent, however, teaches that, at the time the instant invention was made, it was known in the art to construct a grass catcher as a molded plastic box-like structure (40 - see col. 6, lines 28-32). The structure has side panels, an upper panel, and a lower panel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the canvas grass catcher of the McGrath '068 patent with a molded one-piece grass catcher as taught by the Check '852 patent, in order to provide a more durable grass catcher that is less susceptible to puncture or tears. Given the arrangement of the McGrath '068 patent, replacing the canvas structure with

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a molded plastic box structure would not, however, eliminate the need for the reinforcing member (5).

Regarding claims 2, 10: The reinforcing member is substantially cylindrical in shape at its forward location (see Fig. 4). The mower is a reel mower.

3. Claims 1-7, 10-13, 15, 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,970,852 to Check et al. in view of U.S. Patent No. 6,637,081 to Kulkaski.

The Check '852 patent discloses an apparatus comprising a grass mower having a reel cutting unit (26) and a grass catcher (40) positioned adjacent and forward of the cutting unit. The grass catcher is a one-piece molded plastic box-like structure. See col. 6, lines 28-32. The catcher has upper, lower, and side panels and an opening between the upper and lower panels. The catcher has a retaining structure (142) integrally formed with the lower panel and adjacent the opening. The catcher has an elevated lower lip (56). What the Check '852 patent does not disclose is that the apparatus comprises a reinforcing member. The Kulkaski '081 patent teaches that it is known in the lawn mower art to provide grass catcher with a reinforcing member (5) firmly gripped by and restrained against movement by a catcher retaining structure (8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of the Check '852 patent with the reinforcing member for the grass catcher as taught by the Kulkaski '081 patent in order to provide additional strength for the retaining structure. While the Kulkaski '081 patent does not show the reinforcing member extending across the lower panel, the teachings of the Kulkaski apply to *wherever* an edge needs reinforcing.

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Regarding claims 2-7, 10, 11, 13, 15, 17, 19, 21, 22: The reinforcing member taught by the Kulkaski '081 patent is generally cylindrical in shape. While the Check '852 appears to only disclose two retaining structures (142), providing three or more retaining structures would have been an obvious duplication of parts. The retaining structures (142) are channels/passages and are offset. The reinforcing member taught by the Kulkaski '081 patent is exposed. The grass mower of the Check '852 patent is a reel-type mower. The particular dimensions of the reinforcing member would be obvious.

Allowable Subject Matter

4. Claims 8-9, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 6/14/05 have been fully considered but they are not persuasive.

Applicant's amendment that the reinforcing member extends "laterally across the lower panel" is insufficient to make the claims non-obvious over the combination of the Check and Kulkaski patents. First, Applicant suggest that the only purpose of Kulkaski's element 5 is to hold a trap door open. This ignores the secondary, but explicit, purpose of the element that Kulkaski sets for in col. 2, line 63 – col. 3, line 2: To provide additional strength. Obviously, Kulkaski does not show a reinforcing member extending across the lower panel. But Kulkaski's teaches are not limited to providing a reinforcing member at a clip element. Instead, Kulkaski

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teaches that it obvious to reinforce a plastic member where strength is needed. See Kulkaski, col. 2, lines 61-64.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (571) 272-6991. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (571) 272-6998. The fax number for this Group is (571) 273-8300.

A handwritten signature in black ink, appearing to read 'Nathan S. Mammen', with a stylized flourish at the end.

**Nathan S. Mammen
Patent Examiner
Group 3600**

**NSM
7/15/05**